

**Title 8, California Code of Regulations  
Division 1, Chapter 6, Subchapter 11  
Sections 13680 through 13693**

**INITIAL STATEMENT OF REASONS**

**BACKGROUND TO REGULATORY PROCEEDING**

The Legislature added Sections 2050 through 2065 to the Labor Code because it found that some car wash employees are not paid a wage by their employers and receive only the tips given by customers, that other employees are paid below the minimum wage and not paid at an overtime rate for overtime hours worked, that a number of employees have been harassed, intimidated, and mistreated by their employers because of their immigration status, that some employees work in substandard working conditions, and that existing labor laws and enforcement efforts have failed to remedy these problems. To address and remedy these and other problems that plague the car washing and polishing industry, the Legislature determined it would be in the interests of the public's welfare, prosperity, health, safety, and peace to regulate the industry by requiring employers to register with the Labor Commissioner and pay a specified registration fee, and to procure a surety bond for the benefit of any employee damaged by the employer's failure to pay wages or fringe benefits. The Legislature also provided specific recordkeeping requirements that car wash employers must implement with regard to wages, hours, and working conditions, established the Car Wash Worker Restitution Fund as a source of recompense for persons damaged by an employer's failure to pay wages, penalties, and other related damages, and provided for the imposition of a civil fine against employers who fail to register.

**SECTION 13680. DEFINITIONS**

**SPECIFIC PURPOSE OF THE REGULATION.**

Section 13680 defines certain terms used in the regulations. The purpose of the definitions is to implement, interpret, and make specific Labor Code Sections 2055(b)(1), 2059(a) and (b), 2061(a)(4), and 2065(a)(2), and to ensure that the meaning of each term is clearly understood by the regulated community.

**NECESSITY.**

It is necessary to define certain of the key terms used in the Car Washes Regulations to ensure that the content and meaning of the regulations are clearly understood by the regulated community.

**TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS, OR DOCUMENTS.**

The Labor Commissioner did not rely upon any technical, theoretical, or empirical studies, reports or documents in proposing the adoption of this section of the regulations.

#### REASONABLE ALTERNATIVES TO THE REGULATION AND THE AGENCY'S REASONS FOR REJECTING THOSE ALTERNATIVES.

No alternatives were presented to or considered by the Labor Commissioner.

#### REASONABLE ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON SMALL BUSINESS.

The Labor Commissioner has not identified any alternatives that would lessen any adverse impact on small businesses.

#### EVIDENCE SUPPORTING FINDING OF NO SIGNIFICANT ADVERSE ECONOMIC IMPACT ON ANY BUSINESS.

Defining the terms "business days," "branch," "damaged," and "other related damages" will not adversely affect small businesses, because most employers engaged in the business of car washing and polishing are small businesses and will not incur any expense because the aforementioned terms are being defined. And if any expense were to be incurred, it would be insignificant and minimal at best. Therefore, the proposed regulation would not have a significant adverse impact on employers engaged in the business of car washing and polishing.

### **SECTION 13681. RECORDKEEPING**

#### SPECIFIC PURPOSE OF THE REGULATION.

The proposed regulation will clarify that an employer must keep all of the records required by Labor Code Sections 226, 1174, and 2052 and any applicable order of the Industrial Welfare Commission, establish the location where the records required by Labor Code Section 2052 must be kept, and provide that upon a request from the Labor Commissioner the records will be made available for inspection or copying, or both. The proposed regulation also establishes the potential consequences an employer faces if he, she, or it fails to provide the Labor Commissioner with the requested records, or provides falsified records.

#### NECESSITY.

Labor Code Section 2052 sets forth certain types of employment and payroll-related records an employer in the car washing and polishing industry must keep. Labor Code Section 226, which applies to every employer doing business in the state of California, except governmental entities, and Industrial Welfare Commission Order 9-2001, Section 9, which applies to the transportation industry, which includes businesses engaged in car washing and polishing, also require employers keep certain employment and payroll-related records, some of which are not described in Labor Code Section 2052. Labor Code Section 1174 applies to every person employing labor in the state of California, and provides for the retention of payroll records. Because these

multiple statutes and rules create confusion on the part of employers as to the extent of their recordkeeping obligations, the proposed regulation is necessary to: (1) clearly apprise employers of what records must be kept, (2) ensure that the records are readily available to the Labor Commissioner for inspection and copying so that the state's wage and hour laws can efficiently and effectively be enforced without having to constantly go to court seeking enforcement of a subpoena, and (3) inform employers of the potential consequences they may face for failing to provide the records, or for providing falsified records.

#### TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS, OR DOCUMENTS.

The Labor Commissioner did not rely upon any technical, theoretical, or empirical studies, reports or documents in proposing the adoption of this section of the regulations.

#### REASONABLE ALTERNATIVES TO THE REGULATION AND THE AGENCY'S REASONS FOR REJECTING THOSE ALTERNATIVES.

No alternatives were presented to or considered by the Labor Commissioner.

#### REASONABLE ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON SMALL BUSINESS.

The Labor Commissioner has not identified any alternatives that would lessen any adverse impact on small businesses.

#### EVIDENCE SUPPORTING FINDING OF NO SIGNIFICANT ADVERSE ECONOMIC IMPACT ON ANY BUSINESS.

Clarifying which records an employer must keep will not adversely affect small businesses, because most employers engaged in the business of car washing and polishing are small businesses and will not incur any additional expense because of the clarification. And if any expense were to be incurred, it would be insignificant and minimal at best. Therefore, the proposed regulation would not have a significant adverse impact on employers engaged in the business of car washing and polishing.

## **SECTION 13682. CONDITIONS FOR REGISTRATION, INITIAL AND RENEWAL**

### **SPECIFIC PURPOSE OF THE REGULATION.**

The proposed regulation will establish the content of the application for registration that must be completed and executed by an employer before the Labor Commissioner can approve the employer for registration. The regulation will incorporate the application form by reference, Car Washing and Polishing Registration Application, DLSE Form 666 dated August 2004.

The proposed regulation will also establish the formula the Labor Commissioner will use to determine the principal amount of the surety bond required by Labor Code Section 2055. Furthermore, the proposed regulation will clarify the conditions that must be satisfied before the Labor Commissioner may register or renew the registration of an employer.

### **NECESSITY.**

Pursuant to Labor Code Section 2061, the Labor Commissioner may not approve the registration of an employer until the employer has executed a written application in a form prescribed by the Labor Commissioner. The proposed regulation is necessary to establish the form and content of the application for registration, and to clarify the conditions that must be satisfied before the Labor Commissioner can approve an employer for registration. The proposed regulation is also necessary to establish how the Labor Commissioner will determine the principal amount of the surety bond an employer is required to provide.

### **TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS, OR DOCUMENTS.**

The Labor Commissioner did not rely upon any technical, theoretical, or empirical studies, reports or documents in proposing the adoption of this section of the regulations.

### **REASONABLE ALTERNATIVES TO THE REGULATION AND THE AGENCY'S REASONS FOR REJECTING THOSE ALTERNATIVES.**

No alternatives were presented to or considered by the Labor Commissioner.

### **REASONABLE ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON SMALL BUSINESS.**

The Labor Commissioner has not identified any alternatives that would lessen any adverse impact on small businesses.

## EVIDENCE SUPPORTING FINDING OF NO SIGNIFICANT ADVERSE ECONOMIC IMPACT ON ANY BUSINESS.

The requirements that an employer complete an application for registration and submit proofs that it has complied with the local government's business licensing or regional regulatory requirements and that it has secured in a lawful manner the payment of compensation for liability under the State's workers' compensation law will not adversely affect small businesses because most employers engaged in the business of car washing and polishing are small businesses and will not incur any additional expense by satisfying such requirements. However, the requirements that employers engaged in the business of car washing and polishing must register annually and obtain a surety bond will affect such employers because they will incur the expense of the annual registration fee and assessment to the Car Wash Worker Restitution Fund, along with the cost of obtaining the surety bond. The Labor Commissioner has determined, however, that the both the costs for registration, which are set by statute, and not the regulation, and those for obtaining a surety bond, which are set by the market, and not the regulation, would be insignificant and therefore, the proposed regulation would not have a significant adverse economic impact on employer engaged in the business of car washing and polishing.

## **SECTION 13683. ANNUAL REGISTRATION FEE AND ASSESSMENT; PROOF OF REGISTRATION**

### SPECIFIC PURPOSE OF THE REGULATION.

Labor Code Section 2054 requires that every employer register with the Labor Commissioner annually, and Labor Code Section 2059 provides that the Labor Commissioner shall collect a registration fee. The proposed regulation will make it absolutely clear that the registration fee is to be collected annually.

### NECESSITY

The proposed regulation is necessary to clarify Labor Code Section 2059(a) that the Labor Commissioner shall collect the registration fee for each branch location annually.

### TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS, OR DOCUMENTS.

The Labor Commissioner did not rely upon any technical, theoretical, or empirical studies, reports or documents in proposing the adoption of this section of the regulations.

### REASONABLE ALTERNATIVES TO THE REGULATION AND THE AGENCY'S REASONS FOR REJECTING THOSE ALTERNATIVES.

No alternatives were presented to or considered by the Labor Commissioner.

## REASONABLE ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON SMALL BUSINESS.

The Labor Commissioner has not identified any alternatives that would lessen any adverse impact on small businesses.

## EVIDENCE SUPPORTING FINDING OF NO SIGNIFICANT ADVERSE ECONOMIC IMPACT ON ANY BUSINESS.

The requirement that employers engaged in the business of car washing and polishing pay annually a registration fee for each branch location will affect small businesses, because most car washes are small businesses and will of necessity incur this expense in order to operate. However, the Legislature set the fee at \$250.00 for each branch location, with periodic adjustments for inflation at the discretion of the Labor Commissioner, and any potential adverse impact that may result from having to pay annually a registration fee would be as a result of the statute and not the regulation.

## SECTION 13684. REGISTRATION, INITIAL AND RENEWAL

### SPECIFIC PURPOSE OF THE REGULATION.

The proposed regulation will establish a scheme for registering employers with car washing and polishing facilities in existence on the date the regulations become effective. Registration will be on a staggered basis, county-by-county, over a period of approximately seven months. The proposed regulation will allow an employer with facilities in more than one county to register and pay the registration fee for all its branches at one time. The proposed regulation will give the Labor Commissioner the authority to shorten or lengthen the time period of the first renewal of a registration, and to prorate the annual fees accordingly, in order to evenly distribute the workload of the Labor Commissioner's Licensing and Registration Unit over the year. The proposed regulation will establish that all registrations subsequent to the first renewal are at yearly intervals.

### NECESSITY.

There are approximately 1,800 employers in the state engaged in the car washing and polishing industry that will need to be registered by the Labor Commissioner. The majority of these employers have facilities located in five southern California counties: Los Angeles, Orange, San Diego, Riverside, and San Bernardino. Because of limited resources, a statewide hiring freeze, and other budgetary constraints, the Labor Commissioner determined that staggering the registrations over a period of time would provide the most efficient and effective process for all involved. As the majority of registrants will register within a five-month period, the Labor Commissioner determined that having the authority and ability to shorten or lengthen the time for which the first renewal would be valid, the workload would be more evenly spread throughout the year for all subsequent registrations and thus, provide a smoother and faster, and more efficient and effective registration process.

## TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS, OR DOCUMENTS.

The Labor Commissioner used the 2001 County Business Patterns (NAICS), California, United States Bureau of the Census to determine the number and location of car wash and polishing businesses throughout the state of California.

## REASONABLE ALTERNATIVES TO THE REGULATION AND THE AGENCY'S REASONS FOR REJECTING THOSE ALTERNATIVES.

No alternatives were presented to or considered by the Labor Commissioner.

## REASONABLE ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON SMALL BUSINESS.

The Labor Commissioner considered having registrants submit their registration packets all at the same time, but rejected this alternative, as it would create an immediate and immense backlog, and slow down the registration process considerably.

Using the proposed staggered registration system, the Labor Commissioner also considered shortening for some employers and lengthening for others the time period between which employers in the various counties would register. Shortening of the time period to register to fewer than 30 days was rejected because it would have created an immense backlog in the processing unit, impairing the efficiency and effectiveness of the system. And lengthening of the time period to greater than 30 days was rejected because it would have extended the process beyond a time that the Labor Commissioner determined was reasonable under the circumstances to meet the statutory requirement of registration.

## EVIDENCE SUPPORTING FINDING OF NO SIGNIFICANT ADVERSE ECONOMIC IMPACT ON ANY BUSINESS.

Staggering the registration process will not adversely affect small businesses because most employers engaged in the business of car washing and polishing are small businesses and will not incur any additional expense because registration of the entire industry occurs over a period of time, rather than all at once. The lengthening of the period of registration of an employer's first renewal would financially impact an employer; however, if any expense were to be incurred because the period of the registration was lengthened, it would be insignificant and minimal at best. Therefore, the proposed regulation would not have a significant adverse impact on employers engaged in the business of car washing and polishing.

## **SECTION 13685. TRANSFER OF A REGISTRATION PROHIBITED**

### SPECIFIC PURPOSE OF THE REGULATION.

The proposed regulation will establish that an employer may not transfer its registration to any other person.

## NECESSITY

The proposed regulation is necessary to ensure that the intent of the Legislature in establishing a system of registration and bonding requirements for employers engaged in the business of car washing and polishing is not circumvented and instead, is carried out as mandated by the statute.

## TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS, OR DOCUMENTS.

The Labor Commissioner did not rely upon any technical, theoretical, or empirical studies, reports or documents in proposing the adoption of this section of the regulations.

## REASONABLE ALTERNATIVES TO THE REGULATION AND THE AGENCY'S REASONS FOR REJECTING THOSE ALTERNATIVES.

No alternatives were presented to or considered by the Labor Commissioner.

## REASONABLE ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON SMALL BUSINESS.

The Labor Commissioner has not identified any alternatives that would lessen any adverse impact on small businesses.

## EVIDENCE SUPPORTING FINDING OF NO SIGNIFICANT ADVERSE ECONOMIC IMPACT ON ANY BUSINESS.

Providing that an employer may not transfer his, her, or its registration will not adversely affect small businesses, because most employers engaged in the business of car washing and polishing are small businesses and will not incur any additional expense because of such prohibition. And if any expense were to be incurred, it would be insignificant and minimal at best. Therefore, the proposed regulation would not have a significant adverse impact on employers engaged in the business of car washing and polishing.

## **SECTION 13686. REGISTRATION VOID, WHEN**

### SPECIFIC PURPOSE OF THE REGULATION.

The proposed regulation will establish the following: (1) the circumstances under which an employer's registration becomes void, (2) that upon voidance, the registration certificate for each branch location will immediately be surrendered and returned to the Labor Commissioner, and (3) that if voidance is due to a change of legal entity, the new employer must register on its own, including payment of the annual registration fee and the annual fee for the Car Wash Worker Restitution Fund.

## NECESSITY



The proposed regulation is necessary because there are a number of circumstances, any of which may occur, whereby an employer could cease doing business and transfer its certificate of registration to another employer and thus, attempt to thwart the intent of the Legislature that every employer, on its own, register with the Labor Commissioner, pay the registration fee, and meet the bonding requirements of the law.

#### TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS, OR DOCUMENTS.

The Labor Commissioner did not rely upon any technical, theoretical, or empirical studies, reports or documents in proposing the adoption of this section of the regulations.

#### REASONABLE ALTERNATIVES TO THE REGULATION AND THE AGENCY'S REASONS FOR REJECTING THOSE ALTERNATIVES.

No alternatives were presented to or considered by the Labor Commissioner.

#### REASONABLE ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON SMALL BUSINESS.

The Labor Commissioner has not identified any alternatives that would lessen any adverse impact on small businesses.

#### EVIDENCE SUPPORTING FINDING OF NO SIGNIFICANT ADVERSE ECONOMIC IMPACT ON ANY BUSINESS.

Setting forth the circumstance under which an employer's registration automatically becomes void will not adversely affect small businesses, because most employers engaged in the business of car washing and polishing are small businesses and will not incur any additional expense because of the registration's voidance. And if any expense were to be incurred, it would be insignificant and minimal at best. Therefore, the proposed regulation would not have a significant adverse impact on employers engaged in the business of car washing and polishing.

### **SECTION 13687. FAILURE TO OBTAIN TAX CLEARANCE.**

#### SPECIFIC PURPOSE OF THE REGULATION.

One of the stated reasons the Legislature enacted the Car Washes law was because it found the industry was plagued with labor law violations, including employers not paying any wages at all, paying below the minimum wage, and not paying the overtime premium when overtime hours are worked. To ensure that an employer is not embroiled in a controversy with the federal taxing authorities, the outcome of which may divert an employer's financial resources to obligations other than paying its employees, the proposed regulation will establish a ground for giving the Labor Commissioner the authority to deny an applicant's application for registration where the applicant fails to obtain a tax clearance from the Internal Revenue Service.

## NECESSITY

The proposed regulation is necessary to assist the Labor Commissioner in ensuring that the Legislature's intent of seeing that employees are paid their full wages in accordance with the law is carried out.

## TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS, OR DOCUMENTS.

The Labor Commissioner did not rely upon any technical, theoretical, or empirical studies, reports or documents in proposing the adoption of this section of the regulations.

## REASONABLE ALTERNATIVES TO THE REGULATION AND THE AGENCY'S REASONS FOR REJECTING THOSE ALTERNATIVES.

No alternatives were presented to or considered by the Labor Commissioner.

## REASONABLE ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON SMALL BUSINESS.

The Labor Commissioner has not identified any alternatives that would lessen any adverse impact on small businesses.

## EVIDENCE SUPPORTING FINDING OF NO SIGNIFICANT ADVERSE ECONOMIC IMPACT ON ANY BUSINESS.

Setting forth the circumstance under which the Labor Commissioner may deny an employer's application for registration would most likely adversely affect that employer only, as other employers engaged in the business of car washing and polishing are small businesses and will not incur any additional expense because of the denial of another employer's application for registration. And if any expense were to be incurred, it would be insignificant and minimal at best. Therefore, the proposed regulation would not have a significant adverse impact on employers engaged in the business of car washing and polishing.

## **SECTION 13688. TEMPORARY REGISTRATION**

### SPECIFIC PURPOSE OF THE REGULATION.

The proposed regulation will establish (1) the circumstance under which the Labor Commissioner may issue a temporary registration, (2) the period of time for which a temporary registration will be valid, and (3) the affect issuance of a temporary registration will have on a subsequently issued regular registration.

## NECESSITY

The proposed regulation is necessary in order for an applicant to operate its car washing and polishing business without interruption under the circumstance where the applicant has fulfilled all of the conditions for registration, except that the Internal Revenue Service has issued a temporary tax clearance pending the issuance of a full clearance.

## TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS, OR DOCUMENTS.

The Labor Commissioner did not rely upon any technical, theoretical, or empirical studies, reports or documents in proposing the adoption of this section of the regulations.

## REASONABLE ALTERNATIVES TO THE REGULATION AND THE AGENCY'S REASONS FOR REJECTING THOSE ALTERNATIVES.

No alternatives were presented to or considered by the Labor Commissioner.

## REASONABLE ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON SMALL BUSINESS.

The Labor Commissioner has not identified any alternatives that would lessen any adverse impact on small businesses.

## EVIDENCE SUPPORTING FINDING OF NO SIGNIFICANT ADVERSE ECONOMIC IMPACT ON ANY BUSINESS.

Setting forth the circumstance under which an applicant may be issued a temporary registration does not adversely affect small businesses, because most employers engaged in the business of car washing and polishing are small businesses and will not incur any additional expense as a result of being issued a temporary registration. And if any expense were to be incurred, it would be insignificant and minimal at best. Therefore, the proposed regulation would not have a significant adverse impact on employers engaged in the business of car washing and polishing.

## **SECTION 13689. CITATION FOR FAILURE TO REGISTER**

### SPECIFIC PURPOSE OF THE REGULATION.

Labor Code Section 2064 provides that an employer who fails to register pursuant to Labor Code Section 2054 is subject to a monetary fine. The purpose of the proposed regulation is to establish the mechanism by which the fine will be assessed.

## NECESSITY

The proposed regulation is necessary to cure the Legislature's oversight of not providing a means for assessing the civil fine to which an employer who fails to register may be subjected.

## TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS, OR DOCUMENTS.

The Labor Commissioner did not rely upon any technical, theoretical, or empirical studies, reports or documents in proposing the adoption of this section of the regulations.

## REASONABLE ALTERNATIVES TO THE REGULATION AND THE AGENCY'S REASONS FOR REJECTING THOSE ALTERNATIVES.

No alternatives were presented to or considered by the Labor Commissioner.

## REASONABLE ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON SMALL BUSINESS.

The Labor Commissioner has not identified any alternatives that would lessen any adverse impact on small businesses.

## EVIDENCE SUPPORTING FINDING OF NO SIGNIFICANT ADVERSE ECONOMIC IMPACT ON ANY BUSINESS.

Providing the mechanism for assessing the civil fine under Labor Code Section 2064, which the Legislature provided could be assessed against an employer who fails to register, will not adversely affect small businesses, because the amount of the fine is set by statute, and the proposed regulation only establishes the vehicle for imposing the fine.

## **13690. FAILURE TO COMPLY WITH CITATION FOR FAILURE TO REGISTER.**

### SPECIFIC PURPOSE OF THE REGULATION.

The purpose of the proposed regulation is to establish an action the Labor Commissioner can take against an employer who is cited for operating a car wash and polishing business without being registered, fails to comply with the citation, and then subsequently files an application for registration.

### NECESSITY.

The proposed regulation is necessary so that the Labor Commissioner has a means of ensuring that the Legislature's intent of protecting the rights of workers from employers engaged in the business of car washing and polishing who violate the law is carried out.

#### TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS, OR DOCUMENTS.

The Labor Commissioner did not rely upon any technical, theoretical, or empirical studies, reports or documents in proposing the adoption of this section of the regulations.

#### REASONABLE ALTERNATIVES TO THE REGULATION AND THE AGENCY'S REASONS FOR REJECTING THOSE ALTERNATIVES.

No alternatives were presented to or considered by the Labor Commissioner.

#### REASONABLE ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON SMALL BUSINESS.

The Labor Commissioner has not identified any alternatives that would lessen any adverse impact on small businesses.

#### EVIDENCE SUPPORTING FINDING OF NO SIGNIFICANT ADVERSE ECONOMIC IMPACT ON ANY BUSINESS.

The Labor Commissioner's having the right to deny an application for registration of an employer who has been cited under Labor Code Section 2064 and who fails to comply with the citation will not adversely affect small businesses because most employers engaged in the car washing and polishing business are small businesses and will not incur any expense as a result of an employer having his, her, or its application for registration denied. And if any expense were to be incurred, it would be insignificant and minimal at best. Therefore, the proposed regulation would not have a significant adverse impact on employers engaged in the business of car washing and polishing.

### **13691. APPEAL OF CITATION FOR FAILURE TO REGISTER**

#### SPECIFIC PURPOSE OF THE REGULATION.

The proposed regulation will establish a procedure for appealing a citation issued pursuant to Labor Code Section 2064 to ensure that an employer's right to due process is protected.

#### NECESSITY

The proposed regulation is necessary to ensure that an employer's right to contest a citation issued against him, her, or it is protected.

#### TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS, OR DOCUMENTS.

The Labor Commissioner did not rely upon any technical, theoretical, or empirical studies, reports or documents in proposing the adoption of this section of the regulations.

REASONABLE ALTERNATIVES TO THE REGULATION AND THE AGENCY’S  
REASONS FOR REJECTING THOSE ALTERNATIVES.

No alternatives were presented to or considered by the Labor Commissioner.

REASONABLE ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT  
WOULD LESSEN ANY ADVERSE IMPACT ON SMALL BUSINESS.

The Labor Commissioner has not identified any alternatives that would lessen any adverse impact on small businesses.

EVIDENCE SUPPORTING FINDING OF NO SIGNIFICANT ADVERSE ECONOMIC  
IMPACT ON ANY BUSINESS.

Protecting an employer’s right to due process by providing a procedure for appealing a citation issued against the employer will not adversely affect small businesses because to do otherwise, would violate the law.

**13692. IMMEDIATE FAMILY MEMBER DEFINED**

SPECIFIC PURPOSE OF THE REGULATION.

The purpose of defining the phrase “immediate family member” is to implement, interpret, and make specific Labor Code Section 2066(d), and to ensure that the meaning of such phrase is clearly understood by the regulated community.

NECESSITY.

The proposed regulation is necessary to clarify an otherwise ambiguous phrase so that it is clearly understood by the regulated community.

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS, OR  
DOCUMENTS.

The Labor Commissioner did not rely upon any technical, theoretical, or empirical studies, reports or documents in proposing the adoption of this section of the regulations.

REASONABLE ALTERNATIVES TO THE REGULATION AND THE AGENCY’S  
REASONS FOR REJECTING THOSE ALTERNATIVES.

No alternatives were presented to or considered by the Labor Commissioner.

REASONABLE ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT  
WOULD LESSEN ANY ADVERSE IMPACT ON SMALL BUSINESS.

The Labor Commissioner has not identified any alternatives that would lessen any adverse impact on small businesses.

#### EVIDENCE SUPPORTING FINDING OF NO SIGNIFICANT ADVERSE ECONOMIC IMPACT ON ANY BUSINESS.

Defining the term “immediate family member” will not adversely affect small businesses, because most employers engaged in the business of car washing and polishing are small businesses and will not incur any expense because the aforementioned phrase is being defined. And if any expense were to be incurred, it would be insignificant and minimal at best. Therefore, the proposed regulation would not have a significant adverse impact on employers engaged in the business of car washing and polishing.

#### **13693. ACTION AGAINST BOND, INADEQUACY OF BOND, CANCELLATION OF BOND, RETENTION OF BOND**

##### SPECIFIC PURPOSE OF THE REGULATION.

Labor Code Section 2055 requires that an employer obtain a surety bond for the benefit of any employee damaged by the employer’s failure to pay wages, interest on wages, gratuities, or fringe benefits. The proposed regulation will establish that the Labor Commissioner give notice to the employer and surety company of his or her intent to proceed against the bond. The proposed regulation will also establish the actions the Labor Commissioner may take if the employer fails to maintain a surety bond that meets all of the requirements of Labor Code Section 2055, and that the Labor Commissioner will retain the bond for a period of no less than three years after the employer ceases to engage in the business of car washing and polishing.

##### NECESSITY

The proposed regulation is necessary to clarify the Labor Commissioner’s authority to proceed against the employer’s surety bond, to inform employers of the consequence that may befall them for failure to maintain a surety bond as required by Labor Code Section 2055, and to clarify that a source of payment of an employee’s unpaid wages exist for a limited period of time after an employer ceases to engage in the business of car washing and polishing.

##### TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS, OR DOCUMENTS.

The Labor Commissioner did not rely upon any technical, theoretical, or empirical studies, reports or documents in proposing the adoption of this section of the regulations.

##### REASONABLE ALTERNATIVES TO THE REGULATION AND THE AGENCY’S REASONS FOR REJECTING THOSE ALTERNATIVES.

No alternatives were presented to or considered by the Labor Commissioner.

## REASONABLE ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON SMALL BUSINESS.

The Labor Commissioner has not identified any alternatives that would lessen any adverse impact on small businesses.

## EVIDENCE SUPPORTING FINDING OF NO SIGNIFICANT ADVERSE ECONOMIC IMPACT ON ANY BUSINESS.

Labor Code Section 2055 requires that an employer engaged in the business of car washing and polishing obtain a surety bond to provide payment to an employee damaged by the employer's failure to pay wages, interest on wages, fringe benefits, or gratuities. The requirement that an employer must always maintain the bond in a certain principal amount as determined by the Labor Commissioner could affect small businesses because most car washes are small businesses and may incur an expense if the bond falls below the principal amount due to a payment made by the surety, and the employer having to pay a premium or put up collateral to bring the bond up to the amount set by the Labor Commissioner. However, any potential adverse impact that may result from having to maintain the bond at a certain principal amount would be a result of the statute and not the regulation.